Therefore, in the light of these new factors, and circumstances, I do not propose to press my amendment. I may be allowed to withdraw.

The amendment was by leave, withdrawn.

Resolution put and carried unanimously.

LEGEISLATIVE BUSINESS—GOVERNMENT BILLS

The Cochin Companies Bill

Mr. M. Sivarama Menon *(Advocate-General):* Sir, I beg to move that the Cochin Companies Bill may be taken up and finally passed.

Mr. B. V. K. Menon *(Joint Secretary to Government):* I second it.

Mr. A. B. Salem *(Mattancheri):* Sir, this Indian Companies Act, the latest Act, is a very well considered Act, and I must congratulate the Government for bringing our Company Law in Cochin in line with that prevailing in British India. Having something to do with companies for a long time, I wish to draw the attention of the Government particularly to the working and watching of the Companies Act in Cochin. I make bold to say that most of our Registrars of Joint Stock Companies are not efficiently supervising *i. e.*, the supervision of these Registrars is not effective enough to see that the rules of the Companies Act are observed by all Companies working inside the Cochin State. Even sometimes we get legal men falling into pits in the working of the Companies Act and in the administration of it. Under such circumstances this new Act has been brought into force and I pray the Government will take it in hand to see that the purposes of the Act and the benefits of it are ensured to all the Companies inside the State. That is my submission.

Mr. M. Sivarama Menon *(Advocate-General):* I can assure the Hon'ble Member that the Government will watch the work of the Assistant Registrars and there is also the Head of the Department to supervise the work of the Assistant Registrars.

Mr. A. B. Salem *(Mattancheri):* As the Act is not well read and well understood by the people who work the Act in regard to Companies there must be somebody to give them instructions and directions. At present we have only part-time officers who have also got other work in the Registration Department. Therefore what I suggest is there may be a full time officer to look after these Companies. We have a large number of Companies—the list was published in one of the Gazettes the other day. I think there is sufficient work for a Registrar to go about and advise these people, instead of allowing them to commit mistakes and then going to Court. What I say is we want to have effective supervision and help by Government to the Companies and more Companies will be coming in during the industrialization of the country and then we want proper officers to work up the provisions of this Bill.

Mr. M. Sivarama Menon *(Advocate-General):* The observations have been noted.

Motion put and carried

The Cochin Payment of Wages Act (Amendment) Bill

Mr. M. Sivarama Menon *(Advocate-General):* I beg to move that the Cochin Payment of Wages Act (Amendment) Bill be taken up and finally passed.

Mr. B. V. K. Menon *(Joint Secretary to Government):* I second it.

Motion put and carried

The Cochin Cattle Trespass Act (Amendment) Bill

Mr. A. Madhava Prabhu *(Diwan Peishakar):* I move that the Cochin Cattle Trespass Act Amendment Bill be read in Council.

Mr. B. V. K. Menon *(Joint Secretary to Government):* I second it.

Mr. A. V. Moothedan *(Chalakkudi):* I oppose the motion.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* The amendment is intended simply to bring the law in conformity with the practice. The original Cattle Trespass Act was passed in 1071. The Revenue Department was also administering Criminal Justice then. Therefore the words "Magistrates" and "District Magistrate" in some cases were put in some of the sections which related to the administration of the cattle pounds instead of the "Tahsildar" and "Diwan Peishkar". The functions are now being exercised hy two different Departments, so that the word "Magistrate" has to be removed from those sections so far as the administration of the Cattle pounds are concerned, and the word "Tahsildar" has to be substituted. So also words "District Magistrate" occurring in certain sections have to be replaced, by the words "Diwan Peishkar". As a matter of fact though the functions were afterwards given to two different

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Departments the law remained what it was in 1071. The Administration was entrusted to one department instead of the other by means of an executive Order. Therefore to bring the practice in conformity with the law the changes are introduced. There is nothing fundamentally affecting the working of the Act at all. This may be taken into consideration.

Mr. A. V. Moothedan *(Chalakkudi)*: I have three or four objections to this Amendment. The first question is the object of the Amendment is to make the working of the Cattle Trespass Act more effective and more efficient.

Mr. A. Madhava Prabhu *(Diwan Peishkar)*:That is not the object.

Mr. A. V. Moothedan *(Chalakkudi)*: That is the object. I shall read the Objects and Reasons. "The Cattle Trespass Act, III of 1071, was passed at a time when the revenue and magisterial functions were vested in the same officers. When these functions were bifurcated the administration of the Act was vested in the Revenue Department but the Act was not amended. Under the Act the administration and control of cattle pounds vest in the District Magistrate while in actual practice it is under the Diwan Peishkar. The dual control is not conducive to the efficient administration of the Act. It is proposed to amend the Act and to vest the entire control in the Diwan Peishkar and Tahsildars instead of the District Magistrate and Magistrates. Hence the Bill." Therefore the object is the securing of effective and efficient working of the Act. It is stated that the dual control is not conducive to the efficient working of the Act, and therefore the Hon'ble Revenue Member has brought in an amendment bill. On many of these points there is no difference of opinion. In olden days it was the Tahsildar-Magistrate and afterwards the functions were separated. But the law remained the same. As a matter of fact the Revenue Department was administering the Act and the Revenue Member wants to give legal sanction to the activities of the Department. The Revenue Member says that the reason for the inefficient working of the Act is want of statutory recognition and so this amendment is brought.

My submission before the House is that it is highly necessary that the Cattle Trespass Act should be worked effectively, that this old Act of 1071 passed before many of the Hon'ble Members of this House were born should be worked effectively. The Preamble of the Act runs thus.—"Whereas loss and injury are suffered by cultivators and occupiers of land from damage done to crops and other produce of land by the trespass of cattle, and whereas damage is done to the sides and slopes of public roads and embankments by cattle trespassing thereon, and whereas it is expedient to authorise the seizure and detention of cattle doing damage as aforesaid and also to make provision for the disposal of cattle found straying in any public place." So these are the very salutory objects for which the Act was passed. I think till recently say 8 or 10 years back, cattle were generally taken to the pound and the owners went and paid the fine and got them released. Things were going on very well. But recently I find there has been nothing of the sort. There are cattle pounds but no cattle are sent to the pounds.

Mr. A. B. Salem *(Mattancheri)*: No cattle in the land.

Mr. A. V. Moothedan *(Chalakkudi)*: The cattle are decreasing in number. It is my opinion that the inefficient working of this Act is not due to the want of the statutory recognition of the activities of the Revenue Department. The Revenue Department has already got plenty of work in addition to the work of the Supplies Department; purchase of rice, commandeering of paddy, etc. The work in my village, the Muringur Vadakkummuri and Meloor having only one village office with the Parvathiam with a Menon and a masapady to assist him, has increased far and they are not able to pay any attention to the working of this Act.

Mr. A. Madhava Prabhu *(Diwan Peishkar)*: There is an additional Menon also.

Mr. A. V. Moothedan *(Chalakkudi)*: These four people over and above their normal duties under the time honoured revenue laws have to do this commandeering work, the preparation of electoral rolls and other similar additional work. The Legislative Council Act came into force in 1100 and after that they have got the work of preparing electoral rolls. Then there is also the Municipal elections and Panchayat elections. Thus their work has enormously increased. I oppose this amendment in your interest. So if the Government want this Act to be worked satisfactorily what I would submit is the whole thing should be transferred to the Police Commissioner. The number of Police constables is about 1,000. In Ernakulam Town alone there are about 70 constables. Three or four constables may be put on this work.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Proper work for them.

Mr. A. V. Moothedan *(Chalakkudi)*: Again in the Municipal areas the Municipalities are responsible. There are only three or four people and they have to manage the whole town. There are about 2,000 cattle and they are seen out in season and out of season. They may even cause danger to our lives. The cows may come and attack us so that it is high time that

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cattle trespass is stopped. So what I think is the appropriate authority who can deal with this effectively and efficiently is the Police Department.

Rama Varmha Tampuran *(Secretary to Government)*: Without interruption may I know whether the Hon'ble Member wants Police Officers to be put in charge of cattle pounds; Sub-Inspectors to be in charge of cattle pounds?

Mr. A. V. Moothedan *(Chalakkudi)*: One Head Constable may be put in charge of the cattle pound. I say there are more Police officers than Village officers. In Chalakkudi there are about 20.

Mr. V. K. Bhaskara Menon *(Cranganur)*: Not in Chalakkudi.

Mr. A. V. Moothedan *(Chalakkudi)*: Then it may be in Palayannur. You may add some more constables. There is no objection. One or two constables may be given this duty. In these days this is very important because of increasing food production. Much harm is being done in our parts by stray cattle. Members of this House may not be realising fully the havoc done in our parts. This matter is of very great importance now. When we have got sufficient food stuffs after the war this may not be very important. So for the duration of the war this matter may be very seriously looked into. Otherwise our food stuffs will be affected. That is my suggestion. If the object of the Government is to work this Act more effectively and more rigorously then this system should be changed. The present amendment is only a paper amendment. The practice will be the same. So far the Diwan Peishkar and his staff were doing this and hereafter they will do it. There is no change.

Mr. V. K. Bhaskara Menon *(Cranganur)*: What is your objection?

Mr. A. V. Moothedan *(Chalakkudi)*: I want a change in the working of the Act so that it may be more efficient. From the Objects and Reasons it is stated that the present arrangement is not satisfactory.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: It is not stated that it is not satisfactory, in the Objects and Reasons.

Mr. A. V. Moothedan *(Chalakkudi)*: I say, by implication. It is stated the dual control of Magistracy and the Revenue Department is not conducive to the efficient working of the Act. So the object is to make it more satisfactory. If it is not so why this amendment Bill. Why waste paper when it is scarce, and our time also. Therefore my objection to this verbal amendment of this Act.

We have to consider another fact also. Without resorting to the amendment, clause by clause, we can say wherever the word 'Magistrate' occurs substitute 'Tahsildar', and wherever the words 'District Magistrate' occur substitute 'Diwan Peishkar'. That will save time also. If you want any change or to make a trial accept this suggestion.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: We are not interested.

Mr. A. V. Moothedan *(Chalakkudi)*: My Hon'ble Member for Vadakkancheri who has been boasting that he is a friend of the tenant and the agriculturist now says that he does not want to help them.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Not in this way.

Mr. V. K. Bhaskara Menon *(Cranganur)*: What is the second point, please?

Mr. A. V. Moothedan *(Chalakkudi)*: All the points are covered.

Mr. President: Order order. The Hon'ble Member's remarks should be brief.

Mr. A. V. Moothedan *(Chalakkudi)*: Sir, I think one amendment would have been sufficient. There is already one clause here added to the old Act, Section 19A; that was a later amendment in 1101. By that amendment the powers were transferred to the Municipality. By this one amendment the powers and duties vested in the District Magistrate under Chapters II, III and IV were so far as the Municipal areas are concerned were transferred to the Municipal Council. Therefore instead of a clause by clause Amendment a single amendment that the powers shall vest in the Diwan Peishkar and the officers appointed by him would have been sufficient. That is another suggestion that I have to make. With these remarks, I oppose the motion.

Motion put and carried

Secretary to the Council: The title of the Bill is the Cochin Cattle Trespass Act Amendment Bill.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: I move that this important Bill be referred to a Select Committee to be looked into by Hon'ble Member for Chalakkudi, the Revenue Member and the Advocate-General.

Mr. V. K. Bhaskara Menon *(Cranganur)*: I second it.

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Mr. A. Madhava Prabhu *(Diwan Peishkar):* I beg to oppose it. There is nothing so important in this amendment to be gone into by the Select Committee.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* In view of the very valuable suggestions and the able advocacy of the Hon'ble Member for Chalakkudi I thought it absolutely necessary that this important Bill should go to a Select Committee where he may be able to throw more light on the subject, and considering the smallness of the Bill I thought instead of the Committee being the seven, especially when the Hon'ble Member for Chalakkudi is there, the Committee can be reduced to 3. I do not wish to speak more.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* The reason for the opposition is this. There is nothing which requires very serious consideration.

Mr. V. K. Bhaskara Menon *(Cranganur):* Then why did you bring it here.

Mr. President : Order, order.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* I am only speaking my view in the matter. The words to be changed are "District Magistrate" into "Diwan Peishkar" and so on in some sections and not in all sections. Matters affecting the authority of the District Magistrate and the Magistrate in their judicial capacity are not sought to be amended. From section 24 onwards there is reference to penalties, conviction, etc. These are left untouched. The amendment is only with regard to the administration of cattle pounds. There is nothing in this amendment which requires the consideration of the Select Committee. The Revenue Department is taken to be the Department administering the cattle pounds. If it is to be transferred to any other Department the matter becomes different, and may require a Select Committee. At the time of the passing of the Cattle Trespass Act it so happened that the powers of the Revenue Department and the Magisterial Department were centered in one and the same set of officers. That is otherwise now. Unless, therefore, the policy of the Government or the policy which this House is going to enunciate is going to be different, there is no object in placing the matter before a Select Committee. That is all I have to say.

Mr. A. B. Salem *(Mattancheri) :* I also oppose the suggestion of this Bill going to a Select Committee. When I heard the Hon'able Member for Chalakkudi I thought a lot of ideas was passing through his mind at one and the same time so that he did not know which to catch. Otherwise he could have himself brought an amendment.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Why should he labour ?

Mr. A. B. Salem *(Mattancheri) :* Why should he belabour us, bring an opposition and take away our valuable time. He could have brought a Bill, that he has not done. He should not have taken the valuable time of the House. Therefore I think there is no point in any of the points that have been raised, in our spending any time for the consideration of these verbal alteration necessitated by the bifurcation of the functions of the magisterial and the revenue departments in the State long before. I think it is only making our statute book more sensible by substituting these words.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* With the permission of the Chair I may add a word about the "dual control" which I have not explained. The dual control was there only with reference to the allotment ; so far as this item was concerned it did not fall into the Revenue Budget proper. It always went into the other Department. So that whenever we wanted any extra money for these cattle pounds the other Department has to be addressed. Therefore it was resolved to have whole thing transferred to the Revenue Department Budget, so that we may have full control over the allotment. It is only this that is meant when the words "dual control" are mentioned in the object and reasons.

Motion to refer the Bill to the Select Committee was put and lost

Mr. A. Madhava Prabhu *(Diwan Peishkar):* I beg to move that the President may be pleased to suspend the Standing Order No. 32.

Mr. A. V. Moothedan *(Chalakkudi):* Regarding the suspension of Standing Order No. 32 I oppose that, because there is a convention in the Parliaments throughout the World that when a Bill is opposed the Standing Orders are not suspended. There is a tradition here also.

Mr. Pesident: I see no reason why the Standing Order should not be suspended and it is suspended.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* I move that the Bill may be taken into consideration now.

Mr. M. Sivarama Menon *(Advocate-General):* I second it.

Motion put and carried

Clauses 2 to 12 put and carried

Clause 1, Title and Preamble put and carried

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Mr. A. Madhava Prabhu *(Diwan Peishkar):* I move that the Bill may be taken up and finally passed to-morrow.

Mr. M. Sivarama Menon *(Advocate-General):* I second it.

Motion put and carried

The Cochin Anchal Bill

Mr. B. V. K. Menon *(Joint Secretary to Government):* I move that the Cochin Anchal Bill be read in Council.

Mr. M. Sivarama Menon *(Advocate-General):* I second it.

Motion put and carried

Secretary to the Council: The Title of the Bill is the Cochin Anchal Bill.

Mr. B. V. K. Menon *(Joint Secretary to Government):* I request that Standing Order No. 32 be suspended. This also is a Bill which is meant to bring our Act in conformity with the British Indian Postal Act and the Travancore Anchal Act. It is not at all a controversial matter. The present Act was passed in the year 1067. Many years have passed by. I request that this Bill may be taken into consideration immediately suspending Standing Order No. 32.

Mr. President: Standing Order is suspended.

Mr. B. V. K. Menon *(Joint Secretary to Government):* I move that the Cochin Anchal Bill be taken into consideration.

Mr. M. Sivarama Menon *(Advocate-General):* I second it.

Motion put and carried

Clauses 2 to 66 put and carried

Schedule and forms put and carried

Clause 1, Title and Preamble put and carried

Mr. B. V. K. Menon *(Joint Secretary to Government):* I move that the Bill may be taken up and finally passed to-morrow.

Mr. M. Sivarama Menon *(Advocate-General):* I second it.

Motion put and carried

The Cochin Municipal Act (Amendment) Bill

Mr. C. J. Mathew *(Joint Secretary to Government):* Sir, I move that the Cochin Municipal Act Amendment Bill be read in Council.

Mr. B. V. K. Menon *(Joint Secretary to Government):* I second it.

Mr. P. P. Devassy *(Trichur-South):* Sir, I have given notice of an Amendment.

Mr. President: That comes later.

Mr. C. J. Mathew *(Joint Secretary to Governmnt):* Sir, Though the Statement of Objects and Reasons sufficiently explain the object of Government for introducing such an amendment to the Municipal Act, I wish to add a few words by way of explaining further the provisions of this amending Bill. According to the existing provisions in the Municipal Act Government can remove a Commissioner within his ordinary term of 3 years only when the Commissioner is proved to be insufficient or negligant or incapable in the discharge of his duties or where his removal is sought by a vote of the Council itself. This provision will not authorise Government in removing him when exigencies of service actually demands it. The amendment seeks to bring the provision in line with the provision in the Madras District Municipalities Act. The other main amendment sought by the Bill is to disqualify a member to continue in office after he accepts office under Government. Though the Act disqualifies a Government servant from standing for election to the Council there is no express provision prohibiting a member from continuing as member when he accepts office under Government after his election. Provision on analogous lines is contained in the Government of Cochin Act and the Madras District Municipalities Act and the House will agree that it is only proper that the councillor ceases to be a member after acceptance of office under Government. I commend the motion for the kind acceptance of the House.

Mr. A. B. Salem *(Mattancheri):* When a man accepts an appointment under the Government does it *ipso facto* disqualify him to be a Councillor ?

Mr. C. J. Mathew *(Joint Secretary to Government):* As matters now stand he can continue as a Councillor. There is nothing to disqualify him.

Mr. A. B. Salem *(Mattancheri):* Are we not removing Commissioners within the 3 years Now ?

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APPENDIX I

THE COCHIN CATTLE TRESPASS ACT (AMENDMENT) BILL

Preamble.—Whereas it is necessary to further amend the Cattle Trespass Act, III of 1071; It is hereby enacted as follows.—

1. *Short title & commencement.*—This Act may be called the Cattle Trespass Amendment Act of and shall come into force at once.

2. *Amendment of section 3.*—In section 3 of the Cattle Trespass Act, III of 1071, hereinafter referred to as the Act, the following definition shall be added.—

"Tahsildar" includes a Deputy Tahsildar.

3. *Amendment of sections 4 & 5.*—In section 4 and 5 of the Act, for the words "District Magistrate" wherever they occur, the words "Diwan Peishkar" shall be substituted.

4. *Amendment of section 6.*—In section 6 of the Act for the words "District Magistrate" the words "Diwan Peishkar" and for the words "District Magistrate" the words "the Diwan Peishkar" shall be substituted.

5. *Amendment of section 12.*—In section 12 of the Act—

(1) in the proviso—

(*a*) for the words "a Magistrate of a District" the words "the Diwan Peishkar" shall be substituted; and

(*b*) the words "subject to the jurisdiction or control of such Magistrate" shall be deleted; and

(2) in the paragraph occurring next after the proviso for the words "District Magistrate" the words "Diwan Peishkar" shall be substituted.

6. *Amendment of section 14.*—In section 14 of the Act—

(1) for the words "the Officer in charge of the nearest police station" the words "the Tahsildar" shall be substituted; and

(2) for the wards "District Magistrate" wherever they occur the words "Diwan Peishkar" shall be substituted.

7. *Amendment of section 17.*—In section 17 of the Act for the words "District Magistrate" wherever they occur the words "Diwan Peishkar" shall be substituted.

8. *Amendment of section 19.*—In section 19 of the Act for the word "Magistrate" the word "Tahsildar" shall be substituted.

9. *Amendment of section 19-A.*—In section 19-A of the Act for the words "District Magistrate" the words "Diwan Peishkar" shall be substituted.

10. *Amendment of section 20.*—In section 20 of the Act for the words "the District Magistrate or any Magistrate authorised to receive and try such charges without reference by the District Magistrate" the words "the Tahsildar" shall be substituted.

11. *Amendment of sections 21 and 22.*—In sections 21 and 22 of the Act for the words "the Magistrate" wherever they occur the words "the Tahsildar" shall be substituted.

12. *Amendment of section 23.*—In section 23 of the Act for the words "as if they were fines imposed by the Magistrate" the words "as an arrear of revenue under the provisions of the Cochin Revenue Recovery Act, IV of 1083" shall be substituted.

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